

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9693 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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DELUXE CINEMA

Versus

STATE OF GUJARAT

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Appearance:

MR MB FAROOQUI for Petitioners

MS HARSHA DEVANI, AGP for Respondent No. 1, 2

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 16/12/96

ORAL JUDGEMENT

Rule. Service of rule waived by Ms. Harsha Devani, Ld. AGP for the respondents.

2. Heard. The petitioners have been running Deluxe Cinema at Rajkot, which was checked on 15/9/1995 by the Deputy Commissioner, Gandhinagar and as a result of such checking a show cause notice dated 21/3/1996 assessing

the amount of entertainment tax to the tune of Rs.21,900/- and penalty was issued to the petitioners, who gave reply dated 3/6/1996. On 10/6/1996 the impugned order came to be passed. By the said order a sum of Rs.31,528/- was required to be paid by the petitioners. The petitioners moved a revision application against the said order before the Competent Authority. However, Entertainment Tax Commissioner being the Revisional Authority, confirmed the order of the lower authority. Therefore, the said order is also under challenge in this petition.

3. Number of grounds have been raised against the impugned order imposing liability of entertainment tax and penalty. However, the short question on which this petition should succeed is that the Revisional Authority has failed to consider the ground that there was a previous checking on or around 7th September or 8th September, 1996 and that working of entertainment tax and penalty for the period prior to that date could never have been made. It appears that there is some substance in the submission revolving round this ground. The Revisional Authority is required to consider the petitioners' case in that respect. Hence, the following order is passed :-

The impugned order passed by the Revisional Authority (the Entertainment Tax Commissioner) on 1/10/1996 is hereby quashed and set aside and the matter is remanded to the Revisional Authority (the Entertainment Tax Commissioner) for considering the revision strictly on merits. The Revisional Authority shall decide the Revision Application in accordance with law as expeditiously as possible preferably within a period of two months from the date of receipt of writ of this direction. The petitioners shall be heard before deciding the Revision Application on all the ground including grounds stated in this judgment.

Rule made absolute accordingly. No order as to costs.

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